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No. 81-2252

In the Supreme Court of the United States

October Term, 1982

HONDA MOTOR COMPANY, LTD. and
AMERICAN HONDA MOTOR CO., INC.,
Petitioners,

vs.

GLEN K. DORSEY, BARBARA DORSEY,
CONTINENTAL CASUALTY CO. and
MISSION INSURANCE COMPANY,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

RESPONSE TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

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The Respondents, GLEN K. DORSEY and BARBARA DORSEY, Plaintiffs in the trial court, oppose the Motion for Leave to File Brief Amicus Curiae filed by the Products Liability Advisory Council of the Motor Vehicle Manufacturers Association of the United States, Inc. (hereinafter "MVMA") on the following grounds:

1. The MVMA's brief does nothing more than reargue the matters contained in Point 4 of the Petitioner's Petition for Writ of Certiorari. The brief is, as the MVMA

candidly admits, merely a "verbal analysis"[1] of the issues involved and, as such, provides this Honorable Court with no guidance or insight, but serves merely to confuse the simple issue before the Court on the Petition.

2. This is a case which was decided on its unique set of facts. The automobile involved was only imported into this country for two years. Far from affecting a "broad class of defendants" as stated by the MVMA, this case has only very limited application to products liability litigation for the simple reason that it is extremely rare that a major product manufacturer is guilty of the type of wanton conduct found here—to wit, intentionally manufacturing and marketing a vehicle with a defect which the manufacturer *knew* could cause severe personal injury and death to purchasers and other occupants. Far from applying to a broad spectrum of motor vehicle producers, Respondents respectfully submit that the decision below applies only to the very small number of manufacturers which engage in the type of conduct found in the present case. As such, the interest of the overall MVMA in this case is minimal.

3. The primary reason offered in support of MVMA's motion is its interest in whether punitive damages may be awarded where the manufacturer has complied with all applicable federal regulations. This is a false issue. What the MVMA fails to mention is that the present case was based upon the faulty design of the passenger compartment. The Fifth Circuit gave the most intelligent and succinct response to this issue by aptly noting that ". . . none of the regulations applicable to Dorsey's car governed the strength of the A pillar or the overall ability of the passenger compartment to protect occupants in a

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1. See MVMA's brief at 5.

crash . . ." 655 F.2d at 657. Thus, compliance with federal standards is meaningless in this case because the applicable standards did not go into effect until shortly after the Dorsey vehicle was manufactured. 655 F.2d at 657, n. 6. Accordingly, this issue should not provide the grounds upon which the MVMA is permitted to file an amicus curiae brief in this cause.

4. The issue of compliance with federal regulations is in no way determinative of the issues before this Honorable Court. Indeed, 15 U.S.C. § 1397(c) provides that compliance with the federal regulations "does not exempt any person from any liability under common law." 655 F.2d at 656. This case deals purely with a question of state law and willful and wanton conduct on the part of a foreign importer and manufacturer. The interest of the MVMA, therefore, for reasons set forth above, is minimal and its motion should be denied.

Respectfully submitted,

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By LARRY S. STEWART
By GARY D. FOX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 2nd day of July, 1982 to: William H. Crabtree and Edward P. Good, Motor Vehicle Manufacturers Association of the U.S., 300 New Center Building, Detroit, Michigan 48202; Aubrey V. Kendall, P.A., Edward T. O'Donnell, Mershon, Sawyer, Johnston, Dunwody & Cole, Suite 1600, Southeast Bank Building, Miami, Florida 33131; Carey A. Randall, Esquire, Walton, Lantaff, Schroeder & Carson, 900 Alfred I. duPont Building, 169 East Flagler Street, Miami, Florida 33131; Joel R. Teague, Esquire, 2801 Ponce de Leon Boulevard, Coral Gables, Florida 33134; Anthony M. Lanzone, Esquire and Robert A. Calinoff, Esquire, 26 Broadway, New York, New York 10004; Thomas B. DeWolf, Esquire, DeWolf, Ward, Morris Wohlust, Jontz & O'Donnell, 1475 Hartford Building, 200 East Robinson Street, Orlando, Florida 32801; John Edwin Fisher, Esquire, Akerman, Senterfitt & Eidson, Post Office Box 231, Orlando, Florida 32802; and Marion R. Shepard, Esquire, Mathews, Osborne, Ehrlish, McNatt, Gobelman & Cobb, 1500 American Heritage Building, Jacksonville, Florida 32202.

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